

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:)	CASE NO. 11-14176
)	
GIUSEPPE DICENSO)	CHAPTER 13 PROCEEDING
)	
Debtor.)	JUDGE PAT E. MORGENSTERN-CLARREN

MOTION TO MODIFY CONFIRMED CHAPTER 13 PLAN

Now comes Debtor, by and through counsel, and hereby moves this Honorable Court pursuant to 11 U.S.C. § 1329 to modify his Chapter 13 Plan as previously Confirmed by Order of this Court entered September 2, 2011, in accordance with the Modified Plan dated April 10, 2012 as filed. The Modified Plan is necessary to provide for the surrender of Debtor's rental property, and to decrease his Plan payment to account for the corresponding reduction in rental income and the elimination of future conduit mortgage payments.

For cause, after the Confirmation of Debtor's case herein, the tenant at Debtor's rental property located at 1683 Lyndhurst Road, Lyndhurst, OH 44124 stopped making rent payments. Debtor last received a rent payment in December 2011, and Debtor has initiated proceedings to evict his tenant. (See attached 3-day eviction notice). In the meantime, Debtor's budget has been turned upside down since his Plan payment currently includes his monthly mortgage payment to CCO Mortgage aka RBS Citizens NA (the "Creditor") in the amount of \$1,141.01. Debtor's Modified Plan dated April 10, 2012 proposes to surrender the rental property to the Creditor, and to reduce his monthly Plan payment commensurate with the mortgage payment. Otherwise, this case may need to be dismissed for lack of feasibility. Debtor will still pay unsecured creditors the same dividend set forth in his Confirmed Plan under his Modified Plan dated April 10, 2012, so the requested modification remains in their best interests.

Other than set forth above, the proposed modification of Debtors' Confirmed Plan does not adversely alter the treatment of any other creditor from the previously Confirmed Plan. The Plan, *as modified*, complies with all Chapter 13 requirements, and is reasonable and proposed in good faith.

Respectfully submitted,

/s/ Charles J. Van Ness
Charles J. Van Ness (0047365)
Attorney for Debtor
6181 Mayfield Road, Suite 104
Mayfield Hts., OH 44124
(440) 461-4433

CERTIFICATE OF SERVICE

A copy of the foregoing Motion was sent via U.S. Mail (or ECF) on April 10, 2012 to:

Craig Shopneck (via ECF)
Chapter 13 Trustee

Steven D. Miles (via ECF)
Attorney for Wells Fargo Bank, N.A.

Stacy A. O'Stafy (via ECF)
Attorney for BAC Home Loans Servicing LP

BAC Home Loans Servicing LP
P.O. Box 15222
Wilmington, DE 19886

CCO Mortgage aka RBS Citizens NA
10561 Telegraph Road
Glenn Allen, VA 23059

City of Cleveland Division of Water
1201 Lakeside Avenue
Cleveland, OH 44114

Cleveland Clinic Customer Service
9500 Euclid Avenue
Cleveland, OH 44195

Complete Onsite Restoration Experts
13100 Congress Road
West Salem, OH 44287

GE Money Bank dba Exmark
Attn: Bankruptcy Dept.
PO Box 103104
Roswell, GA 30076

GE Money Bank dba H H Gregg
Attn: Bankruptcy Dept.
PO Box 103104
Roswell, GA 30076

GE Money Bank dba Lowe's
Attn: Bankruptcy Dept.
PO Box 103104
Roswell, GA 30076

GE Money Bank dba Lumber Liquidator
Attn: Bankruptcy Dept.
PO Box 103104
Roswell, GA 30076

GE Money Bank dba Polaris
Attn: Bankruptcy Dept.
PO Box 103104
Roswell, GA 30076

Home Depot Credit Services
P.O. Box 653000
Dallas, TX 75265-3000

Macy's
Bankruptcy Processing
P. O. Box 8053
Mason, OH 45040

Medical Mutual
P.O. Box 94580
Cleveland, OH 44101-4580

NTB Credit Plan
P.O. Box 653054
Dallas, TX 75265-3054

PNC Bank
P.O. Box 3429
Pittsburgh, PA 15230-3429

Radko, Inc.
dba American Air Conditioning Academy
14855 Broadway Ave.
Maple Heights, OH 44137

Sears Credit Cards aka Citibank
P.O. Box 6282
Sioux Falls, SD 57117-6282

Chase Bank USA NA
200 White Clay Center Dr.
Newark, DE 19711

Wells Fargo Card Services
PO Box 6412
Carol Stream, IL 60197-6412

Wells Fargo Financial National Bank
4137 121st Street
Urbandale, IA 50323

WFNNB dba Value City
Bankruptcy Department
P.O. Box 182125
Columbus, OH 43218

/s/ Charles J. Van Ness
Charles J. Van Ness (0047365)
Attorney for Debtor

NOTICE TO LEAVE PREMISES

Ohio Revised Code Section 5321

To: NICOLE NAYLOR

You must vacate the premises now in your possession situated in the county of

CUYAHOGA in the State of Ohio, as described as

1683 LYNDHURST ROAD, LYNDHURST, OHIO, 44124

together with the lot of land on which said is situated.

Grounds for eviction:

FAILURE TO PAY RENT

Your compliance with this notice on or before the day of April 6th, 2012, will prevent any legal measure being taken by me to obtain possession. Even if you comply I am not waiving any claims for unpaid rent or any other claims I may have.

Failure to comply may result in legal action to evict you and for judgment that may include costs and attorney fees.

A.M. Dice

Signature

Dated this 2nd day of April, 2012

YOU ARE BEING ASKED TO LEAVE THE PREMISES. IF YOU DO NOT LEAVE, AN EVICTION ACTION MAY BE INITIATED AGAINST YOU. IF YOU ARE IN DOUBT REGARDING YOUR LEGAL RIGHTS AND OBLIGATIONS AS A TENANT, IT IS RECOMMENDED THAT YOU SEEK LEGAL ASSISTANCE.